

1 IAN P. GILLAN, ESQ.  
Nevada Bar No. 9034  
2 KOELLER NEBEKER CARLSON & HALUCK, LLP  
300 South Fourth Street, Suite 500  
3 Las Vegas, NV 89101  
Phone: (702) 853-5500  
4 Fax: (702) 853-5599

5 GREGORY J. KERWIN, ESQ.  
Nevada Bar No. 12417  
6 GIBSON, DUNN & CRUTCHER LLP  
1801 California Street, Suite 4200  
7 Denver, Colorado 80202  
Phone: (303) 298-5739  
8 Fax: (303) 313-2829

9 Attorneys for Defendant,  
LIBERTY MUTUAL INSURANCE COMPANY  
10

11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13  
14 SCOTTSDALE INSURANCE COMPANY  
Plaintiff/Counter-Defendant,  
15 v.  
16 LIBERTY MUTUAL INSURANCE  
COMPANY,  
17 Defendant/Counter-Plaintiff.  
18  
19

CASE NO. 2:12-cv-01328-GMN-CWH

**STIPULATED MOTION TO DISMISS WITH  
PREJUDICE ALL REMAINING CLAIMS  
AND COUNTERCLAIMS IN THIS CASE,  
INCLUDING CLAIMS FOR COSTS AND  
ATTORNEYS FEES, AND STIPULATION  
TO WAIVE ANY APPEAL OF THIS  
COURT'S SEPTEMBER 3, 2015 ORDER  
AND FINAL JUDGMENT**

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21  
22 Plaintiff, Scottsdale Insurance Company ("Scottsdale") and Defendant Liberty Mutual  
23 Insurance Company ("Liberty Mutual"), by and through their counsel, stipulate and move as  
24 follows:

25 1. In light of the Court's September 3, 2015 Order and Final Judgment, Defendant  
26 Liberty Mutual could file a motion seeking the award of its costs and attorney's fees based on an  
27 offer of judgment that it served on Scottsdale on December 18, 2013.  
28

2. Plaintiff Scottsdale could pursue an appeal to the U.S. Court of Appeals for the Ninth Circuit of the Court's September 3, 2015 Order and Final Judgment.

3. To avoid the cost and uncertainty of further litigation on those issues, Liberty Mutual has agreed to waive any claim against Scottsdale for costs or attorney's fees, in exchange for Scottsdale waiving its right to appeal the Order and Final Judgment.

4. Therefore the parties hereby stipulate and move that the Court enter an order dismissing with prejudice under Fed. R. Civ. P. 41(a)(2) all remaining claims and counterclaims in this action, including any claims for costs and attorney's fees, with each party to bear its own costs and attorney's fees.

5. In addition, the parties stipulate that Scottsdale will waive its right to appeal any of the Court's orders in this case including the September 3, 2015 Order and Final Judgment.

WHEREFORE, Plaintiff and Defendant respectfully request that the Court grant this stipulated motion and dismiss with prejudice under Fed. R. Civ. P. 41(a)(2) all remaining claims and counterclaims in this action, including any claims for costs and attorney's fees, with each party to bear its own costs and attorney's fees, in recognition of Scottsdale's agreement to waive any appeal in this case.

Dated: September 14, 2015.

Respectfully submitted,

KOELLER, NEBEKER, CARLSON & HALUCK,  
LLP

*/s/ Ian P. Gillan*

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Ian P. Gillan, Esq.  
300 South Fourth Street, Suite 500  
Las Vegas, NV 89101  
*Attorneys for Defendant*

GIBSON, DUNN & CRUTCHER LLP

*/s/ Gregory J. Kerwin*

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Gregory J. Kerwin, Esq.  
1801 California Street, Suite 4200  
Denver, CO 80202  
*Attorneys for Defendant*

1 CHRISTIAN, KRAVITZ, DICHTER,  
2 JOHNSON & SLUGA, LLC

3 /s/ Martin J. Kravitz

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Martin J. Kravitz, Esq.  
5 Tyler Watson, Esq.  
6 8985 S. Eastern Avenue, Suite 200  
7 Las Vegas, Nevada 89123  
8 *Attorneys for Plaintiff*


9 Based on the parties' Stipulated Motion set forth above:

- 10 1. The Court hereby grants that Stipulated Motion.
- 11 2. The Court hereby dismisses with prejudice under Fed. R. Civ. P. 41(a)(2) all remaining claims  
12 and counterclaims in this action, including any claims for costs and attorney's fees, with each party to  
13 bear its own costs and attorney's fees, in recognition of Scottsdale's agreement to waive any appeal  
14 in this case.
- 15 3. This case is now terminated.

16 **IT IS SO ORDERED.**

17 **November 4th, 2015**

18 ~~Dated: September \_\_, 2015.~~

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Gloria M. Navarro, Chief Judge  
21 United States District Judge

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on the 14th day of September, 2015, I served a copy of the foregoing STIPULATED MOTION TO DISMISS WITH PREJUDICE ALL REMAINING CLAIMS AND COUNTERCLAIMS IN THIS CASE, INCLUDING CLAIMS FOR COSTS AND ATTORNEYS FEES, AND STIPULATION TO WAIVE ANY APPEAL OF THIS COURT'S SEPTEMBER 3, 2015 ORDER AND FINAL JUDGMENT on counsel listed below through the Court's ECF system:

Martin J. Kravitz  
Tyler Watson  
Christian, Kravitz, Dichter, Johnson & Sluga, LLC  
8985 South Eastern Avenue, Suite 200  
Las Vegas, NV 89123

Email:  
[mkravitz@ksjattorneys.com](mailto:mkravitz@ksjattorneys.com)  
[tjwatson@ksjattorneys.com](mailto:tjwatson@ksjattorneys.com)

*Attorneys for Plaintiff, Scottsdale Insurance Company*

s/ Gregory J. Kerwin  
of Gibson, Dunn & Crutcher LLP